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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,171	09/30/2003	Rinaldo Caprotti	2002M013	5909
<div>7590 05/03/2007</div> <div>Infineum USA L.P. Law Department 1900 East Linden Avenue P.O. Box 710 Linden, NJ 07036-0710</div>				
			EXAMINER TOOMER, CEPHIA D	
			ART UNIT 1714	PAPER NUMBER
			MAIL DATE 05/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/675,171

Applicant(s)

CAPROTTI ET AL.

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 9, 2007 has been entered.
2. This Office action is in response to the amendment filed February 9, 2007 in which claims 1-3 were amended.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is rejected because there is no antecedent support in claim 1 for unsaturated acids or derivatives. The claim contains salt derivatives of unsaturated acids.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krull (US 6,610,111).

Krull teaches a low-temperature stabilized additive for fuel oils having a sulfur content of up to 0.05% (500 ppm) comprising A1) 1-99% by weight of at least one saturated monocarboxylic acid having 6-50 carbon atoms and A2) from 1-99% by weight of at least one unsaturated monocarboxylic acid having from 6 to 50 carbon atoms (see abstracts). Constituent A2) may contain one or more double bonds and the proportions of A1) is less than 10% (see col. 3, lines 40-48). The fuel additive can be combined with antioxidants or conductivity improvers (see col. 17, lines 7-15). The additives are added to the fuel in a solvent/carrier solution (see col. 15, lines 6-14). The fuel may be a middle distillate or jet fuel (see col. 16, lines 54-61).

Krull teaches the limitations of the claims other than that he does not specifically teach a composition wherein a plurality of salts of monocarboxylic acids are present. However, it would have been obvious to one of ordinary skill in the art to use a plurality of the salts of these acids because Krull teaches that at least one acid is used and the language "at least one" suggests that a plurality may be present in the composition. With respect to the limitation regarding the salts of the acids, it is well settled that a

reference that recites an acid renders obvious the salt of the acid where both the acid and its salt function similarly. Merck v. Teva 347 F. 3d 1367 (Fed. Cir. 2003) and Glaxo v. Quigg 13 USPQ2d 1628 (Fed. Cir. 1990).

7. Applicant's arguments have been fully considered but they are not persuasive.

Applicant's main argument is that Krull teaches additives comprising fatty acid mixtures and that there is no teaching of an additive composition comprising salt derivatives of the acids.


It is well settled that salts of carboxylic acids are rendered obvious by their acids. The acids of Krull are used in the same environment as the salts of the present invention and one skilled in the art would expect that these acid compounds would function in a manner similar to that of the salts, in the absence evidence to the contrary.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Cepha D. Toomer
Primary Examiner
Art Unit 1714

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